

Before the
Federal Communications Commission
Washington, D.C. 20554

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JUL 25 1996

FEDERAL

COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Claremore and Chelsea, OK)

)
)
) MM Docket No. 95-167
) RM-8699
)
)

To: Chief, Allocations Branch

DOCKET FILE COPY ORIGINAL

**Opposition to Motion for Leave to
File Comments and Comments**

Michael P. Stephens ("Petitioner") hereby respectfully submits his "Opposition" to the "Motion for Leave to File Comments and Comments" filed by Brite-Star Broadcasting ("Brite-Star") on July 11, 1996.

Succinctly stated, Brite-Star's Motion and underlying Comments have been filed based upon a mistaken assumption that the Petitioner has not timely filed an FCC Form 307 application seeking extension of the construction permit for KTFR (FM), Claremore, Oklahoma. Attachment A hereto consists of a contemporaneously-filed document which demonstrates conclusively that Petitioner Stephens has in fact timely filed an FCC Form 307 extension request with the FCC regarding KTFR (FM).

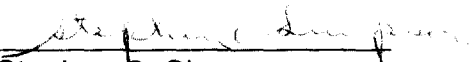
Given the fact that the Petitioner's construction permit for KTFR (FM), Claremore, Oklahoma has not expired, Brite-Star's Motion must be denied.

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List ARCODE

14

Respectfully submitted,

Michael P Stephens

By: 
Stephen C. Simpson
His Attorney

1090 Vermont Avenue, N.W.
Suite 800
Washington, D.C. 20005
(202) 408-7035

Attachment A

STEPHEN C. SIMPSON
ATTORNEY AT LAW

1090 Vermont Avenue, N.W.
Suite 800
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July 25, 1996

FEDERAL COMMUNICATIONS COMMISSION
U.S. DEPARTMENT OF COMMERCE
WASHINGTON, D.C. 20541

COPY

Mr. William Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: KTFR (FM)
Claremore, Oklahoma

Dear Mr. Caton:

Michael P. Stephens, by his attorney hereby respectfully submits a copy of an FCC Form 307 application which was previously filed in February of 1996 by the Permittee seeking FCC approval for an extension of the KTFR (FM), Claremore, Oklahoma construction permit. The subject FCC Form 307 application was received by the FCC's Fee Section in Pittsburgh, Pennsylvania but is now inexplicably absent from the FCC's database.

By way of background, an FCC Form 314 application was granted by the Federal Communications Commission in February of 1995 whereby Michael P. Stephens was authorized to acquire the construction permit for KTFR (FM), Claremore, Oklahoma from Educational Broadcasting Corporation (see Attachment A hereto). Subsequent to oral notification by the FCC's staff of the grant of BAPED-940405GF, an FCC Form 732-FM was issued containing the following language:

The authority to construct granted under File No. BPED-871216MB, as modified by the grants of BMPH-930809JA and BMPH-940511IV, shall expire six months from the date of those modifications, unless consummation of the instant transaction occurs within that time, in which case such authority shall extend for a period of twelve months from the date of consummation.

On February 24, 1995, the Federal Communications Commission was notified in writing by the parties to the subject assignment application (i.e., BAPED-940405GF)

that the assignment had been consummated on February 9, 1995. As such, the expiration date of the KTFR (FM) construction permit was extended to February 9, 1996.

Soon after consummation of the assignment application, the Permittee filed a Petition for Rulemaking seeking the reallocation of Channel 264A from Claremore, Oklahoma to Chelsea, Oklahoma. Stephens filed comment and reply comments in support of the request, and no opposing comments or counterproposals were submitted.

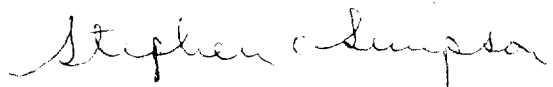
On February 2, 1996, the Permittee forwarded to the FCC's Fee Section in Pittsburgh, Pennsylvania an FCC Form 307 application seeking extension of the KTFR (FM) construction permit in light of the pendency of MM Docket 95-167 requesting the above-referenced change in community of license from Claremore to Chelsea, Oklahoma (see Attachment B hereto). On February 7, 1996, the Mellon Bank processed the FCC fee payment check of \$230.00 forwarded in conjunction with the Permittee's FCC Form 307 application (see Attachment C hereto). As such, Stephen's FCC Form 307 application seeking extension of the KTFR (FM) construction permit was timely filed (i.e., before February 9, 1996).

On July 11, 1996, Brite-Star Broadcasting filed comments in MM Docket No. 95-167 essentially stating that the KTFR (FM) construction permit had expired and that no FCC Form 307 had been filed by Stephens seeking extension thereof. As the subject documentation proves, that is not accurate. However, subsequent telephone calls to, and research at, the FCC have not yielded answers as to the location or disposition of the Permittee's FCC Form 307 application. Thus, the instant filing has been tendered.

It is respectfully requested that the enclosed FCC Form 307 application be accepted for filing nunc pro tunc to at least February 7, 1995 (i.e., the date the Mellon Bank processed the FCC Fee Payment referenced in Attachment C) and processed by the FCC in due course.

Should you have any questions concerning this matter, please contact the undersigned.

Very truly yours,

A handwritten signature in cursive script that reads "Stephen C. Simpson".

Stephen C. Simpson

Attachment A

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

File No(s): BAPED-940405GF

Class of station(s): FM-ED

<input checked="" type="checkbox"/> CONSENT TO ASSIGNMENT: <input type="checkbox"/> CONSENT TO TRANSFER CONTROL: <input type="checkbox"/> CONSENT TO TRANSFER STOCK: Whereby of Control by is effected.	FROM: Educational Broadcasting Corp.
	TO: Michael Stephens
Licensee/Permittee: (for transfer only)	

CALL SIGN(S)

KTFR

STATION LOCATION(S)

Claremore, OK

AUXILIARY STATION(S) (for assignments only)

ALL CURRENTLY AUTHORIZED
AUXILIARY SERVICES

The authority to construct granted under File No. BPED-871216MB, as modified by the grants of BMPH-930809JA and BMPH-940511IV, shall expire six months from the date of grant of those modifications, unless consummation of the instant transaction occurs within that time, in which case such authority shall extend for a period of twelve months from the date of consummation.

Under authority of the Communications Act of 1934, as amended, the consent of the Federal Communications Commission is hereby granted to the transaction indicated above.

The Commission's consent to the above is based on the representations made by the applicants that the statements contained in, or made in connection with, the application are true and that the undertakings of the parties upon which this transaction is authorized will be carried out in good faith.

The actual consummation of voluntary transactions shall be completed within 60 days from the date hereof, and notice in letter form thereof shall promptly be furnished the Commission by the buyer showing the date the acts necessary to effect the transaction were completed. Upon furnishing the Commission with such written notice, this transaction will be considered completed for all purposes related to the above described station(s).

FCC Form 323, Ownership Report, must be filed within 30 days after consummation, by the licensee/permittee or assignee.

ADDITIONAL REQUIREMENTS FOR ASSIGNMENTS ONLY:

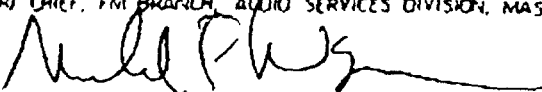
Upon consummation the assignor must deliver the permit/license, including any modifications thereof to the assignee.

It is hereby directed that, upon consummation, a copy of this consent be posted with the station authorization(s) as required by the Commission's Rules and Regulations.

The assignee is not authorized to construct nor operate said station(s) unless and until notification of consummation in letter form has been forwarded to the Commission.

Dated: FEB 17 1995

(FOR) CHIEF, FM BRANCH, AUDIO SERVICES DIVISION, MASS MEDIA BUREAU



FEDERAL
COMMUNICATIONS
COMMISSION

FCC Form 732-FAR
August 1991

Attachment B

APPLICATION FOR EXTENSION OF BROADCAST CONSTRUCTION
PERMIT OR TO REPLACE EXPIRED CONSTRUCTION PERMIT
(CAREFULLY READ INSTRUCTIONS ON BACK BEFORE COMPLETING)

For Commission Use Only

File No.

1. Legal Name of Applicant (See Instruction C)

Michael P. Stephens

2. Mailing Address (Number, street, city, state, ZIP code)

P. O. Box 1250
Sapulpa, OK 74067

Telephone No. (Include Area Code)
(918) 224-4931

3. PURPOSE OF APPLICATION:

- ☒ a. Additional time to construct broadcast station
☐ b. Construction permit to replace expired permit

4. IDENTIFICATION OF OUTSTANDING CONSTRUCTION PERMIT:

File Number BAPED-940405GF	Call Letters KTFR
Frequency 100.7	Channel No. 264A
Station Location Claremore, OK.	

5. OTHER:

Submit as Exhibit No. _____ a list of the file numbers of pending applications concerning this station, e.g., major or minor modifications, assignments, etc. None

6. EXTENT OF CONSTRUCTION:

(a) Has equipment been delivered? ☐ YES ☒ NO

If NO, answer the following:

From Whom Ordered (If no order has been placed, so indicate)

(b) Has installation commenced? ☐ YES ☒ NO

If YES, submit as Exhibit No. _____ a description of the extent of installation and the date installation commenced.

Date Ordered

Date Delivery Promised

(c) Estimated date by which construction can be completed.

7. (a) If application is for extension of construction permit, submit as Exhibit No. _____ reason(s) why construction has not been completed. A petition has been filed and accepted under Docket #95-167 to relocated city of license to Chelsea, OK. There is no final decision yet.
(b) If application is to replace an expired construction permit, submit as Exhibit No. _____ the reason for not submitting a timely extension application, together with the reason(s) why construction was not completed during the period specified in the construction permit or subsequent extension(s).

8. Are the representations contained in the application for construction permit still true and correct? ☒ YES ☐ NO


If NO, give particulars in Exhibit No. _____

The APPLICANT hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

CERTIFICATION

I certify that the statements in this application are true and correct to the best of my knowledge and belief, and are made in good faith.

Legal Name of Applicant Michael P. Stephens	Signature 
Title Owner	Date February 2, 1996

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.
U.S. CODE, TITLE 18, SECTION 1001.

Attachment C

KCSOJ, INC.
CITY FLEX TOWERS
2446 E. 81ST ST., NO. 8860
TULSA, OK 74137

11162

88-284/1031

PAY
TO THE
ORDER OF

Federal Communications Commission

Feb 2 1996

\$ 230⁰⁰

Two hundred thirty & 1/100

DOLLARS

CITIZENS BANK
A Division of
American National Bank of Oklahoma
400 N. Lincoln
Oklahoma, Oklahoma 74106

FOR

Michael P. Stephen

⑈011162⑈ ⑆103102944⑆ ⑈0586623⑈

⑈0000023000⑈

ENDORSE HERE

DO NOT

4-4400221-410-226-178
CREDIT TO ACCOUNT OF
WITHIN NAME PAYEE
WITHOUT PREJUDICE TO
ENDORSEMENT GUARANTEED
MELLON BANK & TRUST CO., PA

TELETYPE STAMP BELOW THIS LINE
RECEIVED JAN 30 1996

403813126760

02/07/96

⑈000001915⑈000010

⑈000001915⑈000010

⑈000001915⑈000010


Certificate of Service

I hereby certify that a copy of the foregoing document was this 25th day of July, 1996 sent by First Class U.S. mail, postage prepaid, to the following:

Leslie Shapiro *
Federal Communications Commission
Room 8308-G
2025 M Street, N.W.
Washington, D.C. 20036

James Crutchfield *
Mass Media Bureau
Room 332
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Matthew H. McCormick, Esq.
Reddy, Begley & McCormick
1001 22nd Street, N.W.
Suite 350
Washington, D.C. 20037

A handwritten signature in dark ink, appearing to read "Stephen C. Simpson", is written over a horizontal line.

* By Hand Delivery to FCC's Mail Room.